

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF THE PROPOSED)
CREATION OF A WATER DISTRICT IN)
THE MUD LAKE AREA WITHIN THE)
EASTERN SNAKE PLAIN AQUIFER IN)
ADMINISTRATIVE BASINS 31 AND 32)
_____)

TRANSCRIPT OF HEARING

Conducted December 5, 2005, Terreton, Idaho
Before Presiding Officer Karl J. Dreher,
Director, Idaho Department of Water Resources

Transcribed by Patsy McGourty
Administrative Assistant
Department of water Resources

Proceedings transcribed from electronic sound recording.

KARL DREHER: Good afternoon. My name is Karl Dreher. I'm the Director of the Idaho Department of Water Resources and I'm serving as the presiding officer in this matter which concerns the proposed creation of a water district for a portion of the Eastern Snake Plain Aquifer within the department's administrative Basin 31 and 32. The provisions of Idaho Code § 42-604 require this hearing to be held prior to the creation of a water district by the person in my position. The hearing is being conducted on December 5, 2005, commencing at about 2:40 in the afternoon at the West Jefferson High School Administration Learning Center located at 1256 E 1500 N in Terreton, Idaho. The hearing was originally scheduled for 1:00 but I've spent the last hour and a half providing background information and addressing questions concerning the nature and the extent of the proposed action.

The purpose of this hearing is to provide affected water right holders or their representatives an opportunity to make an oral statement on the record stating their position, views or concerns about the creation of the proposed water district. For the purposes of this hearing, persons making statements do not need to be sworn in nor will they be subject to cross-examination. All persons signing up to speak will be heard before others are heard and all persons wishing to speak will be heard once before anyone speaks a second time. Notice of this hearing was mailed to each affected water right holder in the proposed district as required under the provisions of Idaho Code § 42-604. In addition, notice was published in the Post Register which is the newspaper from Idaho Falls and the Jefferson Star in Jefferson County, both newspapers are newspapers of general circulation within the area of the proposed district. If there are no further questions, we are now at the point where we can begin taking statements and comments from those persons who desire to be heard in this proceeding.

Looking at the attendance roster, no one committed to making a statement for sure. We have one maybe. LynnBurtenshaw. And then there's an indication that Kent Foster will provide comments later by letter. So to begin with Lynn Burtenshaw. If you'll just sit down, you'll need to state your name and your address for the record.

BERTINSHAW: My name is LynnBurtenshaw. My address is 1758 N 1000 E, Terreton Idaho 83450. The comment that I guess I would like to address is that in the happenstance that the water district is set up eventually, I would like to....if there's a way to put in to the charter of that organization, I would like to see that the mitigation, if there is ever a mitigation plan that has to be administered within the district is set up according to priority dates rather than be voted on and set up according to acreage. Being a minority holder, I guess I would like to make sure that the people who did

come first, do get a little better advantage when it comes to mitigation if there is mitigation.

DREHER: Okay, thank you. Mr. Burtenshaw, before you leave. Were you testifying on behalf of yourself or representing an entity?

BURTENSHAW: Myself.

DREHER: Okay, very good. Thank you. All right. Well, that was the one maybe. Is there anyone else here now that would like to make a comment for the record? Okay. (conversation) There is a mike and I apologize... (conversation). Okay, is there anyone else that wants to make a comment. (conversation) Well, why don't you come forward and state...yes it is. State your name and address and who you're representing please.

LARANAGGA: First name Robert Laranagga, representing the Camas National Wildlife Refuge. Address 2150 E 2350 N. The comment is that we'd like to be considered our current cooperative agreement with IDWR for measuring our wells if we could have a comparable, that agreement or a comparable agreement adopted with the current water district so that US Fish and Wildlife Service can continue to monitor and report the measurement of our wells to the measurement district.

DREHER: Okay. Thank you. Just for the benefit of those that did not hear the prior comments by Lynn Burtenshaw, I'm certain what he said spoke for himself and it's on the record and my comments are not going to be a formal reflection of necessarily the complete statement that he made, but just for the benefit of those who couldn't hear, essentially his comment was that if and when mitigation is required, he wanted to see...his suggestion was and request was that the priority of the rights be adequately recognized meaning that the earlier rights would be required to be less than the later rights. That was the substance of what he said, but certainly his comments are on the record and they speak for themselves and take precedence over my representation of what he said. Okay, if there are no other persons who desire to make a statement at this time, then that will conclude the portion of the record of oral statements in this proceeding. Thank you all for participating. The hearing record will remain open for ten days through December 15th to allow time for the submittal of additional written comments as provided in the notice of this proceeding and as required by Idaho Code § 42-604. I will issue a final order following the close of the comment period, a copy of the final order will be sent by regular mail to all holders of water rights affected by the order. Any party which would be any water right holder affected may file a petition for reconsideration with me within 14 days of the service of the final order. Any party feeling aggrieved by the final order may also seek

judicial review before the district court within 28 days of the issuance of the final order or within 28 days of the action taken on any petition for reconsideration.

Thank you for attending. The record is now closed except for the taking of additional written comments.

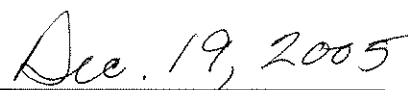
PROCEEDINGS CONCLUDED

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.



Patsy McGourty
Transcriber



Date